



RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

August 5, 2014

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

Re: Proposed Amendments to Statewide Water
Quality Control Plans to Control Trash and
the Draft Staff Report, Including the Draft
Substitute Environmental Documentation

The Riverside County Flood Control and Water Conservation District (District) is submitting this comment letter on the above-referenced Proposed Trash Amendments and Draft Staff Report on behalf of itself and the Municipal Separate Storm Sewer System (MS4) Permittees within Riverside County (collectively, the Riverside County Permittees¹). The Riverside County Permittees are under the jurisdiction of the Santa Ana, San Diego, and Colorado River Regional Water Quality Control Boards. The comments presented in this letter, which were developed in consultation with the Riverside County Permittees, reflect the most critical concerns of the Riverside County Permittees. The Board's careful consideration of these concerns is appreciated.

The Riverside County Permittees oppose adoption of the Proposed Trash Amendments as drafted and are very concerned about their potential impact on the MS4 programs in Riverside County and throughout the State. In fact, MS4 programs across the State have been focused on working with the Regional Boards on approaches to water quality that *identify* the most important impairments in the receiving waters to which the MS4s discharge; and that *prioritize* the finite resources of permittees to address those impairments. Such prioritization is fundamental to ensuring the fastest and most lasting improvement of receiving water quality, as impacted by MS4 discharges.

The Riverside County Permittees are subject to three different MS4 permits issued by the three Regional Boards with jurisdiction in the County. However, each MS4 Permit and the issuing Regional Boards recognize the importance and utility of a prioritized watershed approach to addressing receiving waters impaired by discharges from the MS4. The Riverside County Permittees and the Regional Boards are partners in this effort, which requires careful delineation of the most important pollutants of concern and their sources. It is a process which explicitly recognizes that local agencies, the owners and operators of the MS4, and the jurisdictions with land use authority over source areas, are, with the concurrence of the Boards, in the best position to determine what is achievable and where resources should be directed to get the "most bang for the buck".

The Proposed Trash Amendments, by mandating statewide prioritization of Trash as a pollutant of concern and the design, construction and maintenance of either costly structural full-capture devices (Track 1) or combined approaches and monitoring (Track 2), ignores whether Trash has been *identified* as an impairment to a surface

¹ Riverside County Flood Control & Water Conservation District, County of Riverside, Coachella Valley Water District, Cities of Banning, Beaumont, Calimesa, Canyon Lake, Cathedral City, Coachella, Corona, Desert Hot Springs, Eastvale, Jurupa Valley, Hemet, Indian Wells, Indio, Lake Elsinore, La Quinta, Menifee, Murrieta, Moreno Valley, Norco, Palm Desert, Palm Springs, Perris, Rancho Mirage, Riverside, San Jacinto, Temecula, and Wildomar.

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water and ignores the *prioritization* established for other pollutants in watershed management plans developed with the oversight of the Regional Boards.

The Riverside County Permittees concur that Trash is a significant pollutant of concern in those surface waters where impairment by Trash have been identified. Those Trash impairments and the ongoing and effective programs being implemented to address them are discussed fully in the Draft Staff Report. But, the Proposed Trash Amendments would impose a statewide mandate that ignores local conditions and the most important identified pollutant impairments, and that requires MS4 permittees to address Trash as a top priority pollutant category without regard to whether the surface waters are, in fact, impaired by Trash. As the Draft Staff Report reveals, there is no evidence in the record that, outside of the areas where surface waters are identified as impaired by Trash (representing only 2% of State surface waters), that warrants the additional requirements set forth in the Proposed Trash Amendments.

The Riverside County Permittees, like many other California communities, have long implemented programs to manage Trash, which is reflected in the fact that 98% of the State's surface waters are not impaired by Trash. California communities have taken proactive and effective steps to manage Trash based on local priorities and environmental concerns. MS4 permittees throughout the State have implemented effective programs to manage Trash, including some award-winning programs. In Riverside County, for example, the City of Riverside's "Keep Riverside Clean and Beautiful" program was awarded first place for its litter prevention and public outreach efforts by the Keep America Beautiful National Conference in 2011.

The Riverside County Permittees are therefore confounded by the determination of State Board staff to mandate additional and costly statewide controls on Trash, which ranks only ninth among the twelve most commonly listed impairments of California receiving waters. We are similarly concerned that mandating statewide action on Trash will retard efforts to focus MS4 permittee resources on the highest priority local water quality issues and pollutants of concern - pollutants which may present much more significant threats to human health and the environment.

Compliance requirements in the Proposed Trash Amendments will be costly, resource intensive and for 98% of surface waters, will not address an existing impairment. In the areas tributary to that 98% of the State's surface waters, the Proposed Trash Amendments will mandate diversion of finite resources from identified local water quality priorities to the control of a pollutant category that is not contributing to an impairment of a surface water. Based upon careful review and consideration of the information provided in the Draft Staff Report and our additional analysis of the issue, there is no evidence in the record supporting the adoption of the Proposed Trash Amendments.

If it is determined that statewide policy addressing Trash is needed, we encourage the State Board to set aside the proposed Trash Amendments in their entirety and re-consider this issue in light of the limited impairments described in this letter and other comments submitted by MS4 permittees. For example, the Riverside County Permittees acknowledge that establishment of a statewide water quality objective and definition for "Trash" may have merit. We have reviewed and support comments on specific elements of the Proposed Trash Amendments submitted by Orange, San Diego, and San Bernardino Counties and encourage the State Board to consider their comments as relevant in the development of a revised approach to a statewide policy addressing Trash.

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Trash Impairment is Not a Pervasive Statewide Issue Requiring a Uniform Statewide Response

The Draft Staff Report states:

According to California's 2008-2010 Section 303(d) list of impaired waters, there are 72 listings due to trash in California waters. Although listings occur in four regions (San Francisco Bay, Los Angeles, Colorado River Basin, and San Diego), TMDLs have only been developed to date in the Los Angeles Region and the Colorado River Basin Region. In the Colorado River Basin, a TMDL for Trash was adopted for the New River (at the international boundary) that included a numeric target of zero Trash (Colorado River Basin Water Board 2006). In the Los Angeles Region, fifteen TMDLs were adopted for Trash and debris by either the Los Angeles Water Board or U.S. EPA.²

Not described in the Draft Staff Report but as illustrated in the following table, the 72 surface waters listed as impaired by Trash constitute only a fraction of the 3,549 surface waters identified in the nine California Basin Plans. In fact 98% of the surface waters in California are not impaired by Trash.

Region	# Inland Surface Waters ⁱⁱ	# Impaired by Trash	% NOT Impaired by Trash
North Coast (1)	151	0	100
San Francisco (2)	533	26	95.12%
Central Coast (3)	490	0	100
Los Angeles (4)	330	42	87.3%
Central Valley (5)	117	0	100
Lahontan (6)	1,085	0	100
Colorado River (7)	52	1	98.1%
Santa Ana (8)	230	0	100
San Diego (9)	561	3	99.5%
Total	3,549	72ⁱ	98.0%

ⁱ From review of 2010 California 303(d) list of Water Quality Limited Segments.

Differs from total of 73 segments identified in Draft Staff Report

ⁱⁱ From review of surface waters listed in Basin Plans

To add perspective to the information in this table:

- Five of the nine Regional Boards have not listed any surface waters as impaired for Trash. Of the 72 surface waters listed as impaired by Trash, only one is not located in the urbanized and coastal Los Angeles, San Diego, or San Francisco Regions. Only three impairments are located in the San Diego Region.
- Even in the Los Angeles, San Diego, and San Francisco Regions, 95% of the surface waters (1,353 out of 1,424) are NOT listed as impaired by Trash.
- Of the five Regions that have not listed any surface waters as impaired by Trash, three (North Coast, Central Coast, and Santa Ana Regions) are coastal, suggesting that Trash is not a general coastal water impairment issue. For example, the Santa Ana Region Basin Plan identifies approximately 230 surface waters in that urbanized coastal Region, none of which is listed as impaired for Trash.

² Draft Staff Report, p. 8.

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For over a decade, Trash has been recognized as an important pollutant category to be considered in the identification of impairments by the State and Regional Water Boards. It is clear that the 303(d) list accurately reflects the limited extent of surface waters impaired by Trash:

- 98% of the surface waters have not been identified as impaired by Trash.
- 95% of the surface waters in the Los Angeles and San Francisco Regions, (which contain virtually all of the surface waters impaired by Trash) are not identified as impaired by Trash.
- 3,280 surface waters were identified as impaired by some pollutant category as summarized in the table below underscores that the State is not reticent to list a surface water segment where an impairment may actually exist.

It is notable that the Draft Staff Report does not suggest that Trash impairments in California are not adequately identified.

The opening sentence in Section 1.5 of the Draft Staff Report asserts: *"The presence of trash in surface waters, especially coastal and marine waters, is a serious issue in California."* The Report goes on to state: *"Trash in state waters is related to the direct and indirect activities of inhabitants inland, along coastal shorelines, and offshore (NOAA 2008a)."* These and similar statements throughout the Draft Staff Report illustrate the essential coastal rationale of the Proposed Trash Amendments. In describing potential impacts associated with Trash, the Draft Staff Report appears to assume that the receiving waters typically contain water and support aquatic life. Further, the MS4s in the coastal Regions discharge to waters, including bays, harbors, lagoons and estuaries, as well as the ocean itself, which are all surface waters with beneficial uses that are sensitive to Trash loading. While these conditions certainly pertain to such coastal waters, they are the exception in inland surface waters in much of southern California, especially Riverside County. In Riverside County most surface waters consist of dry washes that support terrestrial wildlife, not the aquatic habitat addressed in the Draft Staff Report. Even where water is present, wind, rather than runoff is likely to be the primary conveyance of Trash to these waters.

The other focus of the Draft Staff Report on the impacts of Trash is on heavily urbanized areas. Assuming that Trash loading to surface waters is proportional to population (see Draft Staff Report at p. C-9), the highly urbanized coastal Los Angeles, San Diego and San Francisco Regions would be expected to experience greater Trash loading and this may be reflected in the number of listings of surface waters impaired by Trash in these Regions. Of the 72 surface waters listed as impaired by Trash, only one is not located in the highly urbanized Los Angeles, San Diego, and San Francisco Regions. Nevertheless, even in the Los Angeles and San Francisco Regions, the vast majority (95%) of surface waters are NOT listed as impaired for Trash. Even in these Regions, Trash is not a generally identified major Pollutant of Concern. As illustrated in the above Table, the North Coast, Central Coast and Santa Ana Regions have no (i.e., zero) surface waters listed as impaired by Trash. Given these facts from the six coastal Regions, Trash is not even a pervasive coastal Pollutant of Concern, including in the highly urbanized Santa Ana Region.

Significantly, the only surface water listed as impaired for Trash and not located in a heavily urbanized coastal Region is the New River, located on the international border in the Colorado River Region. However, the source of Trash to the New River is not originating in California – or even the United States. And, the Colorado River Regional Board has adopted a TMDL to address this impairment. Given these facts, including that 98% of the surface waters in California are not impaired by Trash, the Proposed Trash Amendments are clearly not supported by the facts relating to surface water impairment, as they require mitigation primarily in areas where an impact does not exist.

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The priority for control of Trash loading to coastal waters is recognized in the Draft Staff Report. However, each of these Regional Boards is already working with their MS4 permittees to address Trash-related surface water quality impairments.

Trash Impairments are Already Effectively Addressed

The "No Project Alternative" presented in the Alternatives Analysis of the Draft Staff Report asserts that, absent the adoption of the Proposed Trash Amendments, Trash would continue to accumulate in State waters and adverse effects would continue to occur. The Staff Report adds that, consistent with baseline conditions, beneficial uses of water would not be protected. Additionally, the Staff Report asserts that the number of Trash-related 303(d) listings and TMDLs would apply to an increasing number of water bodies absent statewide consistency. The impacts would stem from the failure to have a statewide water quality objective specific for Trash and variability between existing Trash-related water quality objectives among Basin Plans. With respect, these statements do not reflect reality.

The 72 coastal and marine waters that are identified as impaired by Trash are already being effectively addressed on a Regional basis and are being addressed in a manner that reflects local water quality priorities and recognizes ongoing regional water quality programs. The Los Angeles Region, which has the greatest number of surface waters identified as impaired by Trash, is managing impairments via 15 Trash TMDLs that would be exempt from the requirements in the proposed Trash Amendments. Surface water impairments identified in the San Diego Region, including those associated with Trash, will be addressed by Water Quality Improvement Plans (WQIPs) to be developed on a watershed-specific basis as part of the implementation of the San Diego Regional MS4 Permit. Trash impairments identified in the San Francisco Region are being addressed by the requirements of the Municipal Regional Stormwater Permit (Order No. R2-2009-0074). The approaches in each of these Regions are tailored to address specific local Trash management needs and issues. The Draft Staff Report provides no evidence that the Proposed Trash Amendment would result in more or even equally effective management of Trash to address the impairment of surface waters than the existing Regional efforts.

Even where Trash impairments do not exist, MS4 permittees have long implemented Trash source control programs, including those required by MS4 permits, to prevent impairments. These programs include municipal trash collection and disposal, street sweeping, deployment of public trash cans, public education, code enforcement, maintenance of MS4 facilities and other measures. We believe that these programs have been instrumental in preventing broader impairment of surface waters by Trash.

No Justification for Trash Amendments to Statewide Water Plans

Throughout the Draft Staff Report, it is stated that the proposed Trash Amendments are needed "to provide statewide consistency". However, no evidence is provided in the Draft Staff Report or its attachments to justify why statewide consistency is needed or to justify the approach in the Proposed Trash Amendments requiring MS4 permittees to undertake additional costly and environmentally impactful measures to address Trash where impairments have not been identified.

As previously described, not only are surface waters impaired by Trash limited (with one exception) to surface waters in three highly urbanized coastal Regions, but the overall impact of Trash impairments is minimal compared to other Pollutant categories. The table below displays information from the 2010 California 303(d) list of Water Quality Limited Segments. The table identifies the 12 pollutant categories responsible for surface

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water impairments in California. Of the 12 pollutant categories, Trash is ranked ninth in the total number of surface waters impaired. Even the eighth-ranked pollutant category was found to impair more than twice as many surface waters as Trash. In fact, the top eight ranked pollutant categories impair 3,250 surface waters, compared to only 72 surface waters impaired by Trash, which constitute only 2% of the total surface water impairments in the State. It may be noted that State Board staff is not advocating for statewide policies to address the top eight ranked pollutant categories.

Pollutant Category	Number of Impaired Surface Waters	Percent of Surface Waters Impaired
Pathogens	626	17.6
Pesticides	596	16.8
Metals/Metalloids	476	13.4
Nutrients	444	12.5
Toxicity	254	7.2
Miscellaneous	247	7.0
Other Organics	241	6.8
Salinity	192	5.4
Sediment	174	4.9
Trash	72	2.0
Nuisance	21	0.6
Hydromod	9	0.3
Total	3,352	

Given the very limited extent of surface water impairments due to Trash, the statewide mandate in the Proposed Trash Amendments is unwarranted. Moreover, the Proposed Trash Amendments would inappropriately interfere with and hinder MS4 efforts to prioritize and address the most important regional water quality concerns.

Proposed Trash Amendments Would Disrupt Water Quality Efforts

The Riverside County Permittees believe that, with regard to the MS4 Programs in place in the County, the Proposed Trash Amendments would in fact be counter-productive in addressing surface water quality. As noted above, the key to the Riverside County Permittees' MS4 compliance efforts has been identifying and prioritizing pollutant categories impairing surface waters for source control and management, an intensely local effort performed in collaboration with the Regional Boards that issued the MS4 permits. The Proposed Trash Amendments would require diversion of resources from identification and management of those priority pollutants to address Trash, which has not been identified as creating impairments in any surface water in Riverside County and is not identified as a local pollutant of concern.

An important feature of the most recently adopted MS4 permits has been an increased emphasis on watershed planning initiatives, because a watershed focus has been determined to be the most effective way to address urban pollutant sources. Through the MS4 permits, the Riverside County Permittees (and MS4 permittees in other counties) have spent considerable sums and many months and sometimes years to propose and have adopted watershed management plans that set the agenda for addressing the most important pollutants and their sources and set forth the specific efforts and BMPs that will be utilized.

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These planning efforts are in accord with U.S. EPA's Integrated Municipal Stormwater and Wastewater Planning Approach Framework, set forth in its June 5, 2012 memorandum to U.S.E.P.A. Regional Administrators and Regional Permit and Enforcement Division Directors. This framework emphasizes the need to (1) maintain existing regulatory standards that protect public health and water quality; (2) allow a municipality to balance CWA requirements in a manner that addresses the most pressing public health and environmental protection issues first; and (3) employ innovative technologies, including green infrastructure.

The Proposed Trash Amendments, if adopted, would countermand this guidance by requiring MS4 permittees across the State to ignore the most pressing issues of public health and water quality in their communities and instead to address a pollutant, Trash, which impairs only 2% of the State's surface waters. It is crucial that the State Board not adopt any Trash requirements that would undermine statewide watershed planning initiatives or require diversion of funds and personnel from addressing identified high priority threats to public health and the environment in a 10-year quest to address a different and far less important pollutant. As described during the CASQA Trash webinar on July 29, 2014, Los Angeles County has spent \$88 million implementing the types of trash exclusion devices contemplated in the proposed Trash Amendments. The Riverside County Permittees believe that our capital costs would be significant, constituting a dramatic increase in compliance costs where no impairments are identified. This is a major concern of the Riverside County Permittees.

Establishment of a Statewide Trash Water Quality Objective and Definition

While the Riverside County Permittees oppose adoption of any Trash policy that would require specific actions to address Trash without any identification or evidence of the need for such actions, the Permittees acknowledge that establishment of a statewide applicable Trash water quality objective, including a definition of "Trash," may be useful.

The Riverside County Permittees have concern over the definition of "Trash" in the Proposed Trash Amendments. First, the definition should specifically exclude materials that may be conveyed as a result of flooding events, including agricultural materials, building materials, fencing, and road and highway debris. As the State Board knows, despite the current extreme drought, the State (and including Riverside County) has in the recent past experienced significant flooding events, which typically will bring with them debris flows containing a wide variety of materials, including Trash. Second, the definition includes "natural materials" as a category of Trash. Given the significant amount of plant material that naturally enters the MS4 (through wind, autumn leaf fall and other means), it would be extremely difficult to determine if the "natural materials" were of a production, manufacturing, or processing operation, as required by the definition. Third, the Draft Staff Report suggests that old tires and appliances are Trash items and there is no exclusion in the "Trash" definition for large items that enter receiving waters from sources other than the MS4. It is appropriate to exclude such large items from the definition related to water quality and continue to regulate their management and disposal under existing solid waste regulations, as they are not dissolved in, or readily conveyed by, surface waters other than during flood events. The presence of tires, appliances and other large items in the receiving waters is due to illegal dumping, which is addressed by existing code enforcement activities.

Conclusion

Trash has been identified as a source of impairment in only 72 of the State's 3,549 surface waters, with all but one of these waters located in the highly urbanized and coastal Los Angeles, San Diego, and San Francisco Regions. As discussed in these comments 95% of the surface waters in these Regions and 98% of the surface waters in rest of the State (including all in Riverside County) are not impaired by Trash. Given these facts, a

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statewide mandate to implement costly additional Trash controls and monitoring where no impairments exist is unwarranted. If it is determined that statewide policy addressing Trash is needed, we encourage the State Board to set aside the proposed Trash Amendments in their entirety and re-consider this issue in light of the limited impairments described in this letter and other comments submitted by MS4 permittees.

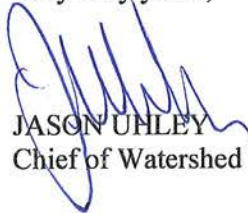
The waters that are identified as impaired by Trash are being effectively addressed on a regional basis. Nothing in the Draft Staff Report or the record before the State Board demonstrates that these programs are ineffective or that the requirements set forth in the Proposed Trash Amendment would result in more or even equally effective management of Trash than the programs implemented in each Region.

The Proposed Trash Amendments, if adopted, would be extremely costly and would undermine watershed management programs across the State aimed at prioritizing water quality concerns. The Proposed Trash Amendments would effectively discard this prioritization by mandating statewide implementation of costly additional Trash controls and monitoring programs without any evidence in the record of the necessity for such implementation. Implementation of this costly mandate will result in diversion of finite resources from programs to address identified impairments and other surface water priorities, a step which would hinder, not enhance, the restoration of beneficial uses in the receiving surface waters.

While the Riverside County Permittees strongly oppose adoption of the Proposed Trash Amendments, they do not object to establishment of an appropriate statewide water quality objective and definition for Trash. The Riverside County Permittees have and will continue to actively support programs that prioritize a focus on the most important identified water quality impairments and provide flexibility to address regional issues. However, we cannot support costly and unwarranted statewide mandates targeting pollutant categories that do not result in impairment of any beneficial uses in 98% of the surface waters in the State.

We urge the State Board's careful consideration of these comments, and appreciate this opportunity to make them.

Very truly yours,



JASON UHLEY
Chief of Watershed Protection Division

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